

REMARKS

This is a full and timely response to the Office Action of April 7, 2004. By the present Amendment, the claims have been amended to more particularly and distinctly point out the novelty and non-obviousness of the present invention. Reconsideration and allowance of the application and all presently pending claims are respectfully requested. The courtesy of the Examiner in granting a recent telephonic interview to Applicant's counsel is acknowledged with appreciation.

As discussed during the interview, the present invention provides a system and method for enabling the facilitation and fulfillment of wireless e-commerce transactions in a secure and convenient manner. The present invention further assists in tying e-commerce transactions to "real world" products and services, and provides appropriate systems to enable users to bypass traditional physical world limitations associated with traditional transactions or only partially integrated e-commerce transactions. For instance, in the movie ticket example described in the specification of the present application, a user is able to bypass a ticket point-of-sale location and proceed directly into the theater using the present invention.

By displaying a transaction code on a wireless device display and optically scanning the code, the present invention enables complete transaction processing for a desired good or service, away from a point-of-sale location. Fulfillment of an actual transaction (e.g., a purchase, sale, rental, lease, loan, borrowing, consigning, etc.) for a product or service is initiated and completed using the displayed code and an appropriate optical scanner. In one embodiment, scanning of the code from the wireless device display triggers a fulfillment event such as a physical event (e.g.,

access to a movie theater or a flight on a plane) and/or an informational event (e.g., directions to a hotel). Thus, the invention provides a system and method which truly facilitates and fulfills transactions for real-world goods and/or services.

By the present Amendment, claims 1, 21, 22, 37 and 38 have been amended to more particularly claim the facilitation and fulfillment of real-world transactions for goods and services by users of wireless devices. Support for these claim amendments and additions is found throughout the specification, and no new matter is believed to have been added. Claim 1 has been amended to recite that the method therein includes the steps of communicating a transaction code representative of a previously requested wireless transaction for a product or service to a wireless communication device, optically scanning, by a transaction fulfillment system, the transaction code from the visual display of the wireless communication device in fulfillment of the wireless transaction for a product or service, and triggering, by the transaction fulfillment system, a wireless transaction fulfillment event in response to optically scanning the first transaction code. Similar language as that in amended claim 1 has been provided in amended claims 22 and 37.

Claim 21 has been amended to recite steps of the embodiment of the invention including receiving a transaction request for admission to an event from a transaction requester, optically scanning, by a transaction fulfillment system, a transaction code from a visual display of a wireless communication device, wherein the code is representative of the requested transaction for admission to an event, and enabling fulfillment of the transaction request in response to scanning the transaction code, including triggering at least one physical fulfillment event to

allow admission to the event. It will be appreciated that the event may be any of a number of real-world experiences or services, including a movie, sporting event or a plane flight, for example. Claim 38 has been amended to include language similar to that provided in amended claim 21.

Response to 35 USC 102 and 103 rejections

In the Office Action dated April 7, 2004, the Examiner has rejected claims 1-6, 10-21, 23-28 and 33-38 under 35 USC 102(e) based on U.S. Patent Application Publication No. 2002/0195495 A1 to Melick et al. (hereinafter "Melick"). The Examiner has further rejected claims 7-9, 22 and 29-32 as being unpatentable over Melick in view of U.S. Patent No. 5,590,038 to Pitroda ("Pitroda"). Based on the above amendments and the present remarks, Applicant submits that these rejections have been traversed.

As discussed during the interview and above, the present invention facilitates wireless transactions for real-world products and services by allowing a transaction requester to request a transaction for a product or service, and having a transaction code representative of the requested transaction sent to a wireless communication device, whereby a transaction code can be displayed on a visual display of the wireless device, and whereby optically scanning the transaction code from the wireless device display enables fulfillment of the wireless transaction. The transaction for a product or service, having already been requested and processed, is thus fulfilled by the scanning of the code sent to and displayed by the wireless device. The fulfillment event can be an information event or a physical event as described.

In contrast, as also discussed during the interview, the Melick reference describes providing devices with a bar code scanner to read bar codes from a video display, thereby purportedly simplifying data interchange across computer systems and decreasing reliance on middleware. Contrary to the invention as presently claimed, Melick et al. is not concerned with scanning transaction codes in fulfillment of previously requested transactions for products or services.

As discussed during the interview and as previously submitted, the Melick reference may only be used to support a rejection under 35 USC 102(e) to the extent supporting subject matter is present in the first two provisional applications relied upon by Melick for priority (i.e., U.S. 60/174,220 filed Jan. 3, 2000 (the '220 application) and U.S. 60/213,843 filed June 23, 2000 (the '843 application)), as these are the only applications with a priority date which predates Applicant's priority filing date of July 13, 2000. While Applicant acknowledges that some elements of the Melick publication may be present in the '220 and '843 applications, Applicant respectfully submits that any elements in the Melick publication which were not in the '220 and '843 application cannot be read into the '220 and '843 disclosures.

The '220 application describes the use of bar codes to simplify data interchange across different computer systems by providing a bar code reader which can capture data, and then transfer it into another computer application (see first three paragraphs). No mention is made in the '220 application of any of the steps of: receiving a request to transact for a product or service,

communicating a code representative of the transaction to a wireless device, and scanning the code from the wireless device display in fulfillment of the transaction. Also, in the present invention, it is *the scanning of the code* which fulfills the transaction. In contrast, the scanning of the code in the '220 application does nothing. Only after the code is scanned and the user squeezes the trigger on the bar code reader is information transferred and a data interchange completed (see page 5, lines 14-19 and page 6, lines 32-36 of the '220 application).

Regarding the '843 application, on page 2, lines 8-11, it is mentioned that "electronically displayed bar codes may also be used as a "switch" to launch Internet web pages, complete machinery initialization and set up, dial a telephone number, etc." Such use is described further on pages 9-11 of the '843 application and is clearly directed at bar code scanning to *access* the Internet (see page 9, lines 17, 22-23, 26-29). The only mention of products and services is in the context of gaining *access to* products and services by scanning a bar code. Indeed, this purpose is expressly stated on page 10, lines 5-7, "[t]his...will let people instantly and easily access Internet sites using a variety of devices without manually entering web addresses." Thus, there is no mention in the '843 application of fulfilling a transaction for a product or service through scanning a code. Rather, scanning a code is viewed as a substitute for typing in a web address. While a person of ordinary skill at the time of the '843 application filing might surmise that an order or transaction for a product or service could take place *after* accessing the Internet, there is no discussion whatsoever of the mechanics of initiating or fulfilling a transaction for a product or service. Even further, there is no discussion of optically scanning a transaction code from a wireless device display in fulfillment of a previously requested transaction for a product or

service. While the list of applications on page 11, lines 19-33 recites applications such as billing (line 23), patient records (line 27) and electronic shopping (line 32), these are applications described only in terms of filling out forms, records, and reports (see lines 13-17). Applicant thus submits that there is no teaching or suggestion of communicating a code representative of a previously requested transaction for a product or service and optically scanning the code from a wireless device display in fulfillment of the transaction, as claimed in the presently amended claims 1, 22 and 37. Applicant further submits that there is no teaching or suggestion in Melick or any of the other references of record, of receiving a transaction request for admission to an event and optically scanning a code representative of the transaction in fulfillment of the transaction to thereby trigger a physical fulfillment event and allow admission to the event, as claimed in amended claims 21 and 38.

Having discussed the above distinctions with the Examiner in the interview, the Examiner indicated in the interview summary that the proposed claim amendments appeared to define around the Melick reference pending review of the present response and a further search. Applicant respectfully reiterates that none of the references of record, taken singly or in combination, discloses or suggests the invention as presently claimed. Claims 24, 26, 29, 32, 35 and 36 have been amended to reflect proper dependency from claim 37.

Response to Provisional Double Patenting Rejections

Claims 1-22 and 24-38 presently stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over specifically cited claims of co-pending Application Serial No. 09/690,212. Noting that these rejections are provisional, and in light of the present Amendment, Applicant submits that subject claims are patentably distinct from the cited claims of co-pending Application Serial No. 09/690,212. Applicant therefore respectfully requests that these rejections be withdrawn, once the present application is otherwise in condition for allowance.

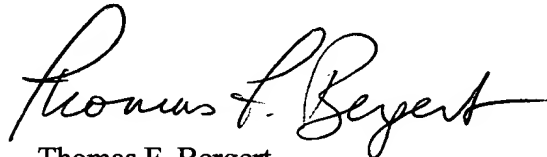
For the above reasons, Applicant submits that none of the cited references, taken either singly or combined, teaches or suggests the system and method of the present invention as presently claimed, and that the rejections in the Office Action of April 7, 2004 have been traversed.

CONCLUSION

Based on the foregoing, Applicant submits that the present application is in position for prompt adjudication and allowance. Applicant believes that all of the claims currently pending in the present application are now in condition for allowance, and an early notice to that effect is earnestly solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the present application, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below.

A three-month extension of time is being filed simultaneously with this Amendment. The Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in payment of the required fees.

Respectfully submitted,
WILLIAMS MULLEN, PC

A handwritten signature in black ink, reading "Thomas F. Bergert". The signature is fluid and cursive, with the first name "Thomas" and last name "Bergert" clearly legible.

Thomas F. Bergert
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Attached: Petition for 3-month extension of time

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